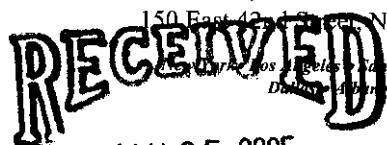


WILSON, ELSE, MOSKOWITZ, EDELMAN & DICKER LLP



JAN 05 2005  
DAVID R. HOMER  
UNITED STATES MAGISTRATE JUDGE  
ALBANY, NEW YORK

150 East 42nd Street, New York, New York 10017-5639 Tel: (212) 490-3000 Fax: (212) 490-3038  
Offices: New York • Los Angeles • San Francisco • Washington, DC • Newark • Philadelphia • Baltimore • Miami • Chicago • White Plains, NY  
Dallas • Albany, NY • San Diego • Houston • Garden City, NY • Boston • McLean, VA • Stamford • London  
Affiliate Offices: Paris • Berlin • Cologne • Frankfurt • Munich

www.wemed.com

January 5, 2005

VIA ECF ONLY

United States District Court  
Northern District of New York  
James T. Foley U.S. Courthouse  
445 Broadway, Room 441  
Albany, NY 12207

Attention: Honorable David R. Homer, U.S. Magistrate Judge

Re: *Pimsner v. Nexen Tire Corporation, et al.*  
United States District Court, Northern District of New York  
Case No. : 03-CV-1373  
Our File No. : 00994.00039

Dear Judge Homer:

All parties have discussed the issues below and jointly request that this Court amend portions of its November 29, 2004 and December 27, 2004 orders.

**Requested Amendment to November 29, 2004 Order**

In the Court's November 29, 2004 order, the discovery deadline was extended to January 16, 2005, and Mr. Shin of Nexen Tire was ordered to be produced again for a deposition by January 16, 2005. All parties respectfully request that the Court extend the discovery deadline to January 21, 2005. Plaintiffs' counsel is located in Houston, Texas and all remaining depositions have been scheduled for the week of January 17<sup>th</sup> in the Albany and New York areas in order to avoid plaintiffs' counsel having to repeatedly travel to this area. Accordingly, all parties request amendment of the current order to allow for the depositions to be conducted through January 21, 2005, including the production of Mr. Shin for his deposition on January 21, 2005.

Along with the extension of time to complete the depositions, defendants would respectfully request that the dispositive motion deadline of February 16, 2005, be extended one week to February 23, 2005.

**Requested Amendment to December 27, 2004 Order**

In its December 27, 2004 order, the Court ordered that (between January 15 and February 15, 2005) Nexen Tire to make available for depositions any employee "who may have worked in

Our File No. 00994.00039

Page 2 of 3

or around the Creel Room during January 2000, such depositions to take place at the offices of plaintiffs' counsel in Houston, Texas..." We communicated with representatives of Nexen Tire and learned that the Manager of the Creel Room does not possess a visa to travel to the United States. Nexen Tire contacted the U.S. consulate and was advised that the earliest the manager of Nexen Tire's creel room could receive an interview with the consulate to obtain a visa would not be until late-March. Following the interview, it will take approximately 2 weeks for the consulate to issue a visa. Accordingly, the earliest that the manager of Nexen Tire's creel room could travel to the United States for the deposition is early April 2005. Plaintiffs' counsel indicated that a telephone deposition will not suffice. Accordingly, since Nexen Tire was ordered to produce the witness by February 15, 2005, defendants respectfully request that the Court modify its current order and extend the deadline for this deposition to April 30, 2005.

The Court also ordered that Nexen Tire make the current head of its R&D Department available for a deposition between January 15 and February 15 in New York with counsel for plaintiffs to pay half of all travel expenses. We have spoken with counsel for plaintiffs on several occasions following the issuance of this Court's Order because the current head of R&D has been with Nexen Tire for only a couple of years and after 2000. Plaintiffs' counsel indicated that they would rather have an engineer or manager who has knowledge concerning the inner liner and the design change to a full cap ply in lieu of the head of the current head of R&D. We identified Mr. Kyung-Woo Cheon, who is currently the General Manager of OE Development Team at the R&D Center at Nexen Tire, and plaintiffs' counsel has agreed with us that he would prefer this individual for a deposition over the current head of the R&D Center. We have agreed to produce Mr. Cheon for a deposition on January 21, 2005, in New York. Accordingly, all parties respectfully request that the Court modify its December 27, 2004 Order to allow for Nexen Tire to produce Mr. Cheon in lieu of the current head of the R&D Center.

All parties are available to conference with the Court to discuss these requested amendments this week. If, however, the Court approves of the requested amendments set forth herein without a conference, all parties respectfully request that the Court "so Order" this letter request.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP



Michael H. Bai

Our File No. 00994.00039

Page 3 of 3

1/5/05

*David R. Homer*

---

**SO ORDERED**

**Magistrate Judge David R. Homer**

**United States District Court**

**For the Northern District of New York**

cc: *Via Facsimile*

Bond, Schoeneck & King, PLLC

Attention: Arthur J. Siegel, Esq.

Ware, Snow, Fogel & Jackson LLP

Attention: John C. Ramsey, Esq.